

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

APR 20 2007

JOHN F. CORCORAN, CLERK
BY:
DEPUTY CLERK
W. M. C. C.

UNITED STATES OF AMERICA

) Case No. 7-06-cr-00107

v.

)

PRETRIAL ORDER

)

ANTWAN BANKS et als.,

) By: Glen E. Conrad

) United States District Judge

This case is set for trial beginning on June 12, 2007, and has been scheduled for three days. In order to administer the trial of this case in a fair, just and judicious manner, it is now

ORDERED

as follows:

1. The jury in this case shall be selected using the "struck jury" method. Further information regarding jury selection may be obtained from the courtroom deputy in advance of trial. Generally, counsel will be permitted to participate in voir dire. Counsel's voir dire is expected to be limited to relevant questions and shall not consist of disguised argument on the merits of the case. The parties shall be given an appropriate opportunity to present challenges for cause outside of the presence of the jury. The court will then rule on dismissals for cause and excuses based on hardship. Thereafter, the parties will take alternate written strikes in a manner to be prescribed by the court. In the normal case, no alternates will be used.

2. In the usual case, jury selection is expected to take no more than two hours. After the jury is sworn, preliminary instructions are given by the court. In complicated cases, the jurors may be permitted to take notes. Questions by jurors are not permitted.
3. The court will employ standard opening jury instructions and standard general closing instructions. Copies of the standard instructions normally given may be obtained from the courtroom deputy prior to trial. The parties shall submit proposed substantive jury instructions and, if deemed necessary, a proposed verdict form, no less than seven (7) days prior to trial. If a party has a specific objection to a proposed instruction from the opposing party, counsel shall notify the court before the trial is convened. Counsel should formulate and agree upon a statement of the case and the issues to be incorporated in the court's standard voir dire and preliminary instructions. Counsel for the United States shall initiate and circulate the draft statement to be submitted to the court no less than seven (7) days prior to trial. The court will conduct a charge conference, usually at the conclusion of all evidence.
4. In a conspiracy case, if a defendant has notified the United States in advance of a challenge to the admissibility of the testimony of a co-conspirator, the United States shall prepare a written proffer as to the existence of the conspiracy and the defendant's participation therein.

5. Counsel should anticipate any evidentiary questions or disputes and bring them to the attention of the court prior to trial. All motions in limine must be scheduled for hearing in advance of trial. The government must notify a defendant of its intent to adduce evidence of prior bad acts or co-conspirator's statements. Specifically, if there are disputes as to the admissibility of evidence under Rule 404(b) and 801(d)(2)(E) of the Federal Rules of Evidence, such issues should be brought to the court's attention prior to trial. Unless raised prior to trial, objections as to the substance of previously disclosed exhibits will not be sustained.
6. It will be assumed that all exhibits have been previously disclosed and that there is no objection to an exhibit unless made prior to trial. Exhibits and matters not previously disclosed shall not be used at trial, except with appropriate leave of court, sought and obtained prior to opening statements. Counsel must provide a list of witnesses and exhibits to the court reporter and courtroom deputy clerk. Counsel must provide an extra copy of each exhibit for the court in jury trials. Questions to witnesses and argument to the court must be made from the lectern. Counsel may approach the witness without leave of court if necessary to hand the witness a document or exhibit, but must promptly return to the lectern. Exhibits are in the custody of the courtroom

deputy clerk and must be returned to the clerk once examination of a witness is completed.

7. All objections and other remarks to the court must be made while standing. Objections must be succinct. Side bar or bench conferences are discouraged and argument outside of the presence of the jury will normally take place only during regular recesses or before or after court sessions. When there are multiple defendants, counsel are responsible for coordination of cross-examination. Repetitive cross-examination is not permitted. Generally, objections made by one defendant will be deemed to have been made on behalf of all co-defendants, unless a co-defendant opts out of the objection.
8. Normally, trials begin promptly at 9:00 a.m. and end at approximately 5:00 p.m. each day, with a one-hour lunch break and 15-minute breaks in the morning and afternoon. Matters to be taken up outside of the presence of the jury should be scheduled before or after the trial day or during the recesses. If there are such matters to be taken up, a request should be made to the courtroom deputy clerk or the bailiff, and notice given to opposing counsel.
9. In most cases, the court will send with the jury a written copy of the charge for the jury's reference during deliberations. The jury will be instructed that during deliberations, it may request any or all of the exhibits. During jury deliberations, counsel will be expected to remain in the courthouse. Following the trial, counsel may not discuss the case with jurors without leave of court.

10. Post-trial motions shall be made within seven (7) days following the discharge of the jury. Responses to such motions shall be made within seven (7) days of the motion being filed.

The Clerk is directed to send certified copies of this Order to all parties.

ENTER: April 18, 2007

Greg Conrad
United States District Judge